

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MIGUEL MOLINA, *et al.*,

No. 4:21-CV-00038

Plaintiffs,

(Chief Judge Brann)

v.

(Chief Magistrate Judge Mehalchick)

K. KAUFFMAN, *et al.*,

Defendants.

ORDER

NOVEMBER 30, 2022

Plaintiffs filed this civil rights complaint—which they have amended three times—alleging that their rights have been violated by Defendants as related to the conditions of confinement at Pennsylvania State Correctional Institution Huntingdon.¹ On November 2, 2022 Chief Magistrate Judge Karoline Mehalchick issued a Report and Recommendation recommending that this Court deny as moot claims for injunctive and declaratory relief, sever the parties, and direct that each Plaintiff file an amended complaint in their separate civil actions.² No timely objections have been filed to the Report and Recommendation.

¹ Docs. 1, 35, 72, 101, 102, 104, 108.

² Doc. 219.

Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error.³ Regardless of whether objections are made, district courts may accept, reject, or modify—in whole or in part—the findings or recommendations made by the magistrate judge.⁴ After reviewing the record, the Court finds no error in Chief Magistrate Judge Mehalchick’s conclusion that Plaintiffs’ complaints should be severed. Accordingly, **IT IS HEREBY ORDERED** that:

1. Chief Magistrate Judge Karoline Mehalchick’s Report and Recommendation (Doc. 219) is **ADOPTED**;
2. Irizzary’s motion for an extension of time (Doc. 217) is **DENIED** as moot;
3. Claims for injunctive and declaratory relief are **DENIED** as moot;
4. Plaintiffs’ complaints are **SEVERED**. Miguel Molina’s claims shall proceed in this action, No. 4:21-CV-00038, and the Clerk of Court is **DIRECTED** to open new civil actions for each of the remaining Plaintiffs;

³ Fed. R. Civ. P. 72(b), advisory committee notes; *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed).

⁴ 28 U.S.C. § 636(b)(1); Local Rule 72.31.

5. Plaintiff Alexis Maldanado's new civil action is No. 4:22-CV-1890. Plaintiff Vann L. Bailey's new civil action is No. 4:22-CV-1891. Plaintiff Angel Irizarry's new civil action is No. 4:22-CV-1892.
6. By December 30, 2022, Plaintiffs shall each file a single, all-inclusive fourth amended complaint in his respective civil actions that sets forth the claims that they wish to pursue along with any underlying facts in support of those claims. The failure to file a timely amended complaint may result in the dismissal with prejudice of that plaintiff's case; and
7. These matters are **REMANDED** to Chief Magistrate Judge Mehalchick for further proceedings.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
Chief United States District Judge